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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,078	01/02/2002	Seemab Aslam Kadri	42390.P13127	7340
8791	7590	10/24/2006	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			HAMZA, FARUK	
		ART UNIT	PAPER NUMBER	
		2155		

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/038,078	KADRI ET AL.	
	Examiner	Art Unit	
	Faruk Hamza	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 August 2006.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12, 15, 16, 18-21 and 29-37 is/are pending in the application.
- 4a) Of the above claim(s) 13, 14, 17 and 22-28 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12, 15, 16, 18-21 and 29-37 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

Response to Amendment

1. This action is responsive to the amendment filed on August 01, 2006.

Claim 1 has been amended. Claims 13-14, 17 and 22-28 have been canceled.

Claims 1-12, 15-16, 18-21 and 29-37 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-12,15-16,18-21 and 29-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Dutta et al. (U.S. Pub. No. 2002/0073204) hereinafter referred as Dutta.

Dutta teaches the invention as claimed including a method and system for allowing a user of data sharing application in a peer-to-peer network (See abstract).

As to claim 1, Dutta teaches a method, comprising:
when a first server is active in a peer-to-peer network having multiple peers, from a first peer querying the first server for information about a second peer in the peer-to-peer network, wherein the first server is configured to include information about all of the multiple peers in the peer-to-peer network (Page 3, P [0036]-P [0039]; Fig. 2D, Dutta discloses first server having multiple peers in peer-to-peer network and include information about other peers); and
when the first server is not able to satisfy the query, querying one or more neighbor peers for information about the second peer, wherein the first server is not a neighbor peer (Page 3, P [0036]-P [0039]; Fig. 2D, Dutta discloses forwarding the received query to other peer after searching itself).

As to claim 2, Dutta teaches the method of claim 1, wherein the first server includes a network peer directory containing the information about all of the

multiple peers in the peer-to-peer network (Page 1, P [0006]).

As to claim 3, Dutta teaches the method of claim 2, wherein a peer in the peer-to-peer network includes a neighbor peer directory containing information about one or more neighbor peers (Page 1, P [0006]).

As to claim 4, Dutta teaches the method of claim 3, further comprising:
determining if the first peer already has information about the second peer prior to querying the first server (Page 3, P [0037]); and
retrieving the information about the second peer when the information about the second peer is located the first peer (Page 1, P [0037]).

As to claim 5, Dutta teaches the method of claim 4, wherein querying the one or more neighbor peers comprises:
querying a neighbor peer included in the neighbor peer directory of the first peer to locate the information about the second peer (Page 3, [0037]); and
when the information about the second peer is located in the neighbor peer, retrieving the information about the second peer from the neighbor peer (Page 3, [0037]).

As to claim 6, Dutta teaches the method of claim 1, wherein when the first server is not active in the peer-to-peer network, at least one of the multiple peers

in the peer-to-peer network becomes a second server (Page 3, P [0034]; [0041]).

As to claim 7, Dutta teaches the method of claim 6, wherein the at least one of the multiple peers in the peer-to-peer network becomes the second server by broadcasting a message to other peers in the peer-to-peer network (Page 3, P [0034]; Page 4, P [00046]).

As to claim 8, Dutta teaches the method of claim 7, wherein the at least one of the multiple peers in the peer-to-peer network becomes the second server by receiving positive acknowledgement to the broadcasted message from the other peers in the peer-to-peer network (Page 3, P [0034]; Page 4, P [00046]).

As to claim 9, Dutta teaches the method of claim 6, wherein the at least one of the multiple peers in the peer-to-peer network becomes the second server if that peer has sufficient capability rating (Page 3, P [0034]; Page 5, P [0059]).

As to claim 10, Dutta teaches the method of claim 9, wherein the capability rating of a peer includes storage and processing capability (Page 3, P [0034]; Page 5, P [0059]).

As to claim 11, Dutta teaches a system, comprising:

a network interface to connect to a peer-to-peer network (Fig.1A; Page 2, P [0026]);

a processor coupled with the network interface (Page 2, P [0028]);

a memory coupled with the processor and the network interface, the memory including a neighbor peer directory having information about zero or more neighbor peers in the peer-to-peer network, wherein when searching for a desired peer, the memory is first searched to locate information about the desired peer, wherein when the information about the desired peer is not included in the memory, a first query is sent to a server system connected to the peer-to-peer network to search for the information about the desired peer, the server system having information about all peers in the peer-to-peer network, and wherein when the server system is not able to satisfy the first query a second query is sent to neighbor peers (Page 2, P [0028]; Page 3, [0037]).

As to claim 12, Dutta teaches the system of claim 11, wherein the first query is sent to the server system when the server system is active (Page 3, P [0034]; P [0041]).

As to claim 15, Dutta teaches the system of claim 12, wherein when the server system is not active, one or more peers in the peer-to-peer network becomes a replacement server system (Page 3, P [0034]; [0041]).

As to claim 16, Dutta teaches a computer readable medium containing executable instructions which, when executed in a processing system, causes the processing system to perform a method comprising:

when a server system is active in a peer-to-peer network, querying the server system for information about a desired peer in the peer-to-peer network, wherein the server system includes information about all of the peers in the peer-to-peer network (Page 3, P [0034]; [0037], Dutta discloses querying server for information); and

when the server system is not able to provide the information about the desired peer, querying neighbor peers for the information about the desired peer (Page 3, P [0037], Dutta discloses querying neighbor peers for information when server fails to provide information).

As to claim 18, Dutta teaches the computer readable medium of claim 16, wherein a peer in the peer-to-peer network includes information about neighbor peers (Page 1, P [0006]- P [0007]).

As to claim 19, Dutta teaches the computer readable medium of claim 18, further comprising:

retrieving the information about the desired peer from a local memory instead of querying the server system when the information about the desired

peer is located in the local memory (Page 3, [0037]).

As to claim 20, Dutta teaches the computer readable medium of claim 19, wherein querying the neighbor peers comprises:

querying one or more of the neighbor peers to locate the information about the desired peer (Page 3, [0037]); and

when the information about the desired peer is located in a neighbor peer, retrieving the information about the desired peer from the neighbor peer (Page 3, [0037]).

As to claim 21, Dutta teaches the computer readable medium of claim 16, wherein when the server system becomes inactive in the peer-to-peer network, at least one of the peers in the peer-to-peer network becomes a replacement server system (Page 3, P [0034]; [0041]).

As to claim 29, Dutta teaches a peer-to-peer network, comprising:
a super peer configured to include information about peers in the peer-to-peer network, wherein each of the peers includes information about the super peer, wherein one or more of the peers include information about its corresponding neighbor peers, wherein when a first peer is to search for a second peer in the peer-to-peer network, the first peer is to search in a sequence including memory of the first peer, the super peer, and neighbor peers of the first

peer until either information about the second peer is located or it is determined that the second peer is not in the peer-to-peer network (Page 1, P [0006-0007]; Page 3, P [0034, 0037,0039], Dutta discloses each peer having information about other peers in peer-to-peer network. A node search itself for the information first before forwarding the query to neighbor peers).

As to claim 30, Dutta teaches the network of claim 29, wherein the super peer is capable of delegating super peer functions to one or more peers in the peer-to-peer network (Page 1, P [0006-0007]).

As to claim 31, Dutta teaches the network of claim 30, wherein when the super peer becomes inactive, each of the peers in the peer-to-peer network is to update own information about status of the super peer (Page 1, P [0006-0007]; Page 5, P [0055]).

As to claim 32, Dutta teaches the network of claim 31, wherein when the super peer becomes inactive, one or more of the peers in the peer-to-peer network becomes a replacement super peer (Page 1, P [0006-0007]; Page 3, P [0034]).

As to claim 33, Dutta teaches the network of claim 32, wherein the replacement super peer is have sufficient storing and processing capability to perform as the super peer (Page 1, P [0006-0007]; Page 3, P [0034]).

As to claim 34, Dutta teaches the network of claim 31, wherein a peer is to update the super peer of changes to information about neighbor peer (Page 1, P [0006-0007]; Page 5, P [0055]).

As to claim 35, Dutta teaches the network of claim 34, wherein a peer is to update the super peer of changes to information about network identification (Page 1, P [0006-0007]; Page 5, P [0055]).

As to claim 36, Dutta teaches the network of claim 31, wherein when the first peer is to search for the second peer using the neighbor peers of the first peer, hop count information is used to control search propagation (Page 3, P [0042]).

As to claim 37, Dutta teaches the network of claim 31, wherein when the first peer is to search for the second peer using the neighbor peers of the first peer, time stamp information is used to control search propagation propagation (Page 3, P [0042]).

3. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its entirety as potentially teaching of all or part of the claimed invention, as well as the context.

Response to Arguments

4. Applicant's arguments have been fully considered but they are not persuasive.

In the remarks applicant argues in a substance that; A) Dutta does not teach the claim limitation "server includes information about all of the multiple peers in the peer-to-peer network". B) Dutta does not teach the claim limitation "query is first sent to server, and when the server is not able to satisfy the query, the query is then sent to the neighbor peers.

In response to A) Applicant is arguing server includes information about all of the multiple peers in the peer-to-peer network. The claim language recites "when the first server is not able to satisfy the query, querying one or more neighbor peers for **information about the second peer**". That implies server

does not include information about all the peers in the peer-to-peer network.

Claimed subject matter not the specification is the measure of the invention.

Disclosure contained in the specification cannot be read into the claims for the purpose of avoiding prior art. *In re Sporck*, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1986); *In re Self*, 213 USPQ 1,5 (CCPA 1982); *In re Priest*, 199 USPQ 11, 15 (CCPA 1978).

In response to B) Applicant is arguing query is first sent to server, and when the server is not able to satisfy the query, **the query is then sent to the neighbor peers**. The claim language recites “when the first server is not able to satisfy the query, querying one or more neighbor peers for **information about the second peer**”. **“the query is then sent to the neighbor peers** is not in claim. Claimed subject matter not the specification is the measure of the invention. Disclosure contained in the specification cannot be read into the claims for the purpose of avoiding prior art. *In re Sporck*, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1986); *In re Self*, 213 USPQ 1,5 (CCPA 1982); *In re Priest*, 199 USPQ 11, 15 (CCPA 1978).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faruk Hamza whose telephone number is 571-272-7969. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached at 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information

for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll -free).

Faruk Hamza

Patent Examiner

Group Art Unit 2155



SALEH NAJJAR
SUPERVISORY PATENT EXAMINER